

AMENDED IN SENATE MARCH 30, 2016

SENATE BILL

No. 1043

Introduced by Senator Allen

(Principal coauthor: Assembly Member Williams)

February 12, 2016

An act to amend Section 25420 of, and to add Section 39735 to, the Health and Safety Code, *and to amend Section 40106 of the Public Resources Code*, relating to biogas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1043, as amended, Allen. Renewable gas: biogas and biomethane.

(1) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020 equivalent to the statewide greenhouse gas emissions level in 1990. Existing law requires the state board to complete a comprehensive strategy to reduce emissions of short-lived climate pollutants, as defined, in the state.

This bill would require the state board to consider and adopt policies to significantly increase the sustainable production and use of renewable gas, as defined, and, in so doing, would require the state board, among other things, to ensure the production and use of renewable gas provides direct environmental benefits and identify barriers to the rapid development and use of renewable gas and potential sources of funding. *The bill would require the state board to develop and adopt a lifecycle*

accounting method for greenhouse gas and emissions of short-lived climate pollutants associated with biogas produced from forest biomass, as specified.

(2) Existing law requires the Office of Environmental Health Hazard Assessment, in consultation with the state board, the Department of Toxic Substances Control, the Department of Resources Recycling and Recovery, and the California Environmental Protection Agency, to compile a list of constituents of concern that could pose risks to human health and that are found in biogas, as defined, at concentrations that significantly exceed the concentrations of those constituents in natural gas. Existing law requires the office to determine the health protective levels for that list, as specified, and requires the state board to identify realistic exposure scenarios and the health risks associated with those scenarios, as specified.

Existing law requires the Public Utilities Commission to adopt, by rule or order, standards for biomethane, as defined, that specify the concentrations of constituents of concern that are reasonably necessary to protect public health and ensure pipeline integrity and safety, as specified, and requirements for monitoring, testing, reporting, and recordkeeping, as specified. Existing law requires a gas corporation to comply with those standards and requirements and requires the commission to require gas corporation tariffs to condition access to common carrier pipelines on the applicable customer meeting those standards and requirements.

This bill would revise the definitions of biogas and biomethane for these purposes.

(3) Existing law defines “biomass conversion” for purposes of the waste management laws to mean the production of heat, fuels, or electricity by the controlled combustion of, or the use of other noncombustion thermal conversion technologies on, certain listed materials.

This bill would revise that definition to add to those listed materials byproducts or residue from composting.

Existing law specifies that “biomass conversion” does not include the controlled combustion of, among other things, materials that contain sewage sludge.

This bill would delete from that exclusion the controlled combustion of materials that contain sewage sludge.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California has enacted numerous policies to reduce emissions
4 of greenhouse gases and to increase the use of renewable energy
5 resources and renewable fuels, including the California Global
6 Warming Solutions Act of 2006 (Division 25.5 (commencing with
7 Section 38500) of the Health and Safety Code), the California
8 Renewables Portfolio Standard Program (Article 16 (commencing
9 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
10 Public Utilities Code), the Low Carbon Fuel Standard regulation
11 (Executive Order S-01-07 (January 19, 2007), Sections 95480 to
12 95490, inclusive, of Title 17 of the California Code of Regulations),
13 an energy storage portfolio requirement (Chapter 469 of the
14 Statutes of 2010), emissions goals for 2030 and 2050 (Executive
15 Order B-30-15), and the state's comprehensive strategy to reduce
16 emissions of short-lived climate pollutants (Section 39730 of the
17 Health and Safety Code).

18 (b) Natural gas, which is used for a wide variety of purposes,
19 including the generation of electricity, heating, cooling, industrial,
20 commercial, residential, and transportation fuel, causes more than
21 one-quarter of all emissions of greenhouse gases in California.
22 Methane emissions from a variety of sources, including wastewater
23 treatment facilities, landfills, dairies, agricultural production, and
24 oil and gas, represent up to 15 percent of California's total climate
25 change emissions. Wildfires cause two-thirds of all black carbon
26 emissions, which accounts for approximately 10 percent of
27 ~~California's~~ California's total climate change emissions.

28 (c) Reducing emissions of methane, black carbon, and other
29 short-lived climate pollutants is the most effective way to
30 immediately slow global warming and reduce the impacts of
31 climate change. Capturing and using methane (renewable gas) can
32 significantly reduce emissions of greenhouse gases from fossil
33 fuel use, organic waste, ~~wildfires~~, and petroleum-based fertilizers.
34 Increasing the production and use of renewable gas could reduce
35 emissions of greenhouse gases by tens of millions of metric tons
36 of carbon dioxide equivalent emissions per year.

37 (d) Renewable gas generated from organic waste can be used
38 to produce the lowest carbon transportation ~~fuel~~, *fuel*. *It can also*

1 *be used to produce flexible generation of electricity from a*
2 ~~renewable resource~~, *renewable power*, energy storage, and a
3 low-carbon gas supply for heating, cooling, and other purposes.

4 (e) Using forest biomass collected as part of a sustainable
5 forestry plan can significantly reduce the risks and impacts of
6 catastrophic wildfires, including black carbon emissions and air
7 pollution, impacts on water supply and quality, impacts on utility
8 and other infrastructure, threats to public safety and communities,
9 impacts on fisheries and wildlife, and effects on precipitation.

10 (f) Increasing the use of renewable gas in heavy-duty vehicles
11 in California can help protect disadvantaged communities in the
12 state by reducing toxic air contaminants and smog-forming
13 emissions.

14 (g) Renewable gas can provide significant economic benefits
15 to California, including job creation, an in-state source of gas,
16 increased energy security, revenue and energy for public agencies,
17 and revenue for dairies, farms, rural forest communities, and other
18 areas.

19 (h) Increasing the use of renewable gas will diversify and
20 decarbonize California's gas supply.

21 (i) Increasing the use of renewable gas can help California to
22 meet the waste diversion requirements of Section 41781.3, Article
23 1 (commencing with Section 41780) of Chapter 6 of Part 2 of, and
24 Chapter 12.9 (commencing with Section 42649.8) of Part 3 of,
25 Division 30 of, the Public Resources Code, and the Short-Lived
26 Climate Pollutant Reduction Strategy being developed by the State
27 Air Resources Board pursuant to Section 39730 of the Health and
28 Safety Code by using diverted organic waste to produce renewable
29 gas.

30 SEC. 2. Section 25420 of the Health and Safety Code is
31 amended to read:

32 25420. For purposes of this chapter, the following definitions
33 apply:

34 (a) "Biogas" means gas that is produced from organic waste
35 through anaerobic digestion or eligible conversion technologies,
36 consistent with Section 40106 of the Public Resources Code.

37 (b) "Biomethane" means the methane derived from biogas.

38 (c) "Board" means the State Air Resources Board.

39 (d) "CalRecycle" means the Department of Resources Recycling
40 and Recovery.

(e) “Commission” means the Public Utilities Commission.

(f) “Common carrier pipeline” means a gas conveyance pipeline located in California that is owned or operated by a utility or gas corporation, excluding a dedicated pipeline.

(g) “Dedicated pipeline” means a conveyance of biogas or biomethane that is not part of a common carrier pipeline system and that conveys biogas from a biogas producer to a conditioning facility or an electrical generation facility.

(h) “Department” means the Department of Toxic Substances Control.

(i) “Gas corporation” has the same meaning as defined in Section 222 of the Public Utilities Code and is subject to rate regulation by the commission.

(j) “Hazardous waste landfill” means a landfill that is a hazardous waste facility, as defined in Section 25117.1.

(k) “Office” means the Office of Environmental Health Hazard Assessment.

(l) “Organic waste” means waste of biological origins, including organic waste, as defined in Section 42649.8 of the Public Resources Code; biomass feedstock, consistent with Section 40106 of the Public Resources Code; and livestock waste.

(m) “Person” means an individual, trust, firm, joint stock company, partnership, association, business concern, limited liability company, or corporation. “Person” also includes any city, county, district, and the state or any department or agency thereof, or the federal government or any department or agency thereof to the extent permitted by law.

SEC. 3. Section 39735 is added to the Health and Safety Code, to read:

39735. (a) For purposes of this section, the following terms have the following meanings:

(1) “Biogas” has the same meaning as defined in Section 25420, except that it does not include gas produced from forest biomass unless ~~is it~~ *it* is produced from forest waste remaining after all other reasonable forest products have been produced and ~~harvested it~~ *meets one or more of the following conditions:*

(A) ~~The waste was generated pursuant to the Governor’s state of emergency proclamation issued on October 30, 2015, or a subsequent emergency order related to forests, 2015.~~

1 (B) *The waste was generated as a result of activities necessary*
2 *to clear defensible space within 150 300 feet of a legally permitted*
3 *structure, or a harvesting operation that advances the establishment*
4 *of a well-distributed mature forest on the site. structure.*

5 (C) *The waste was produced pursuant to an approved timber*
6 *harvest plan, nonindustrial timber management plan, or working*
7 *forest management plan that will increase the average stand*
8 *diameter of residual crop trees, and the biogas produced from the*
9 *waste will provide long-term reductions in greenhouse gas and*
10 *emissions of short-lived climate pollutants pursuant to the lifecycle*
11 *accounting method specified in subdivision (c).*

12 (D) *The waste was generated from fuel reduction or ecological*
13 *forest restoration thinning activities on national forest land that*
14 *increase stand heterogeneity, create openings of less than one*
15 *acre, and increase the average stand diameter of residual trees.*

16 (2) “Renewable gas” means biogas or synthetic gas generated
17 by an eligible renewable energy resource meeting the requirements
18 of the California Renewables Portfolio Standard Program (Article
19 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
20 Division 1 of the Public Utilities Code). *For purposes of this*
21 *paragraph, “eligible renewable energy resource” does not include*
22 *organic waste, as defined in subdivision (l) of Section 25420.*

23 (3) “Short-lived climate pollutant” has the same meaning as
24 defined in Section 39730.

25 (b) In order to meet the state’s climate change, low-carbon fuel,
26 renewable energy, landfill diversion, and wildfire reduction goals,
27 the state board shall consider and adopt policies to significantly
28 increase the sustainable production and use of renewable gas. In
29 doing so, the state board shall do all the following:

30 (1) Consider adopting a low-carbon gas standard, a renewable
31 gas portfolio standard, public utility purchase requirements,
32 purchase requirements by end-use sectors, including transportation,
33 electrical generation, fuels refining, and public utility purchasing,
34 and other policies to increase the production and use of renewable
35 gas and to reduce the carbon intensity of the state’s gas supply.

36 (2) Ensure that any policy is coordinated and consistent with
37 existing state policies ~~to~~ *to accomplish the following:*

38 (A) Promote renewable fuels and eligible renewable energy
39 resources, as defined in the California Renewables Portfolio

1 Standard Program (Article 16 (commencing with Section 399.11)
2 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

3 (B) Reduce life-cycle emissions of greenhouse gases and
4 short-lived climate pollutants and increase carbon sequestration.

5 (C) Divert organic waste from landfills, consistent with Section
6 39730 and other state policies.

7 (D) Reduce air and water pollution.

8 (E) Reduce wildfires.

9 (F) Promote resilient and sustainable forests.

10 (G) *Protect the environmental quality of natural and working*
11 *lands through sustainable cultivation, use, and application of*
12 *biological materials.*

13 (3) *Ensure, in consultation with the Department of Resources*
14 *Recycling and Recovery, that any policy recognizes that the amount*
15 *of landfill gas will decline in the future due to increased organic*
16 *waste diversion to meet the targets of the state board's strategy*
17 *to reduce emissions of short-lived climate pollutants and other*
18 *state organic waste reduction efforts.*

19 ~~(3)~~

20 (4) Ensure that the production and use of renewable gas provides
21 direct benefits to the state's environment by avoiding or reducing
22 the emission of criteria pollutants, avoiding or reducing emissions
23 of short-lived climate pollutants and greenhouse ~~gases~~, *gases within*
24 *the state*, avoiding or reducing emissions that adversely affect the
25 waters of the state, avoiding or reducing nuisances associated with
26 the emission of odors, or helping the state to meet its landfill
27 diversion requirements.

28 ~~(4)~~

29 (5) Identify barriers to the rapid development and use of
30 renewable gas and make specific recommendations to remove
31 those barriers.

32 ~~(5)~~

33 (6) Coordinate with the Public Utilities Commission, the State
34 Energy Resources Conservation and Development Commission,
35 publicly owned utilities, the Department of Resources Recycling
36 and Recovery, and the Department of Forestry and Fire Protection.

37 ~~(6)~~

38 (7) Identify potential sources of funding to provide incentives
39 for renewable gas production and use.

1 (c) The state board shall develop and adopt a life cycle
2 accounting method for greenhouse gas and emissions of short-lived
3 climate pollutants associated with biogas produced from forest
4 biomass that meets the requirements specified in paragraph (1)
5 of subdivision (a). The method shall include upstream accounting
6 of forest carbon and shall avoid double counting of emission
7 reductions.

8 SEC. 4. Section 40106 of the Public Resources Code is
9 amended to read:

10 40106. (a) “Biomass conversion” means the production of
11 heat, fuels, or electricity by the controlled combustion of, or the
12 use of other noncombustion thermal conversion technologies on,
13 the following materials, when separated from other solid waste:

14 (1) Agricultural crop residues.

15 (2) Bark, lawn, yard, and garden clippings.

16 (3) Leaves, silvicultural residue, and tree and brush pruning.

17 (4) Wood, wood chips, and wood waste.

18 (5) Nonrecyclable pulp or nonrecyclable paper materials.

19 (6) *Byproducts or residue from composting.*

20 (b) “Biomass conversion” does not include the controlled
21 combustion of recyclable pulp or recyclable paper materials, or
22 materials that contain ~~sewage sludge~~, industrial sludge, medical
23 waste, hazardous waste, or either high-level or low-level
24 radioactive waste.

25 (c) For purposes of this section, “nonrecyclable pulp or
26 nonrecyclable paper materials” means either of the following, as
27 determined by the department:

28 (1) Paper products or fibrous materials that cannot be
29 technically, feasibly, or legally recycled because of the manner in
30 which the product or material has been manufactured, treated,
31 coated, or constructed.

32 (2) Paper products or fibrous materials that have become soiled
33 or contaminated and as a result cannot be technically, feasibly, or
34 legally recycled.